

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 740 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

@

MUKESH MIYARAM LEVUA PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 740 of 2002
MR RS SANJANWALA for Petitioner No. 1-2
Mr V M Pancholi, APP for Respondent No. 1
..... for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 15/04/2002

ORAL JUDGEMENT

This is an application filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing the FIR being C.R. No.14/2002 recorded and registered before Navsari Rural Prohibition Police Station for offence under the Bombay Prohibition Act on the ground that the petitioners herein were found carrying rotten gur in truck bearing No.GJ-5-U-2638 and committed the aforesaid offence since they had no pass or permit to carry the

same. The applicants herein have filed this application for quashing the said FIR stating that no offence has been committed by them and that the rotten jaggery in question was not required to be used or consumed in the State of Gujarat and it was only goods in transit and, therefore, the said FIR should be quashed as per the case of the applicants.

2. On receipt of the application, rule was issued and Mr V M Pancholi, learned APP appears for the respondents in response to the service of rule. During the course of hearing it is found that the applicants herein have produced copy of the letter with the papers at page 16. It seems that the said letter was issued on 16.1.2002, written by the manufacturer and copy has been endorsed to Silvasa Traders, Naroli, Dadarnagar Haveli, Silvasa which shows that the aforesaid goods were required to be carried to that place. This shows that the said rotten jaggery was not required to be used or consumed within the State of Gujarat.

3. It is a fact that rotten jaggery was a complicated issue and the Social Welfare Department of the State of Gujarat had issued certain directions for the said purpose. First one is a circular dated 11.7.1995. Another one was issued by the Director General of Police and Inspector General of Police dated 20.1.1995. Another such circular was issued by the said office dated 17.11.2000. In this connection, even a writ petition was filed and disposed of by this court on 28.11.1986 in Special Criminal Applications No.4 and 5 of 1986. Another Criminal Misc.Applications No.774 and 775 of 1985 were also disposed of by this court by oral order dated 1.7.1985. One more Criminal Misc.Application No.4763/98 was disposed of by this Court on 27.11.1998. Other such matters were also disposed of by this Court. Last decision appears to be of 10.7.2001 in Criminal Misc.Application No.2170/2001 with other allied criminal Misc.Applications disposed of by this Court. In view of the aforesaid circulars and decisions of this Court, it is very clear that before going for a FIR or a complaint and before such complaint or FIR could be investigated, it was necessary to consider the aforesaid circulars and decisions of this Court. This appears to have been omitted in the present matter.

4. In above view of the matter, it is very clear that the records show that the goods were simply in transit and it was not to be used or consumed in the State of Gujarat. Therefore, no offence is made out even as per the police investigation papers. In that view of

the matter, when no offence is made out, it would be just, proper and legal to allow this application and set aside the aforesaid FIR.

5. For the foregoing reasons, this petition is allowed. The FIR being CR No. 14/2002 registered at Navsari Rural Prohibition Station, Navsari Rural for the offences punishable under the Bombay Prohibition Act, 1949 against the petitioners is ordered to be quashed and set aside. Rule is made absolute accordingly.

15.4.2002 [D P Buch, J.]

msp